

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re application of

Jean SAUNIERE

Conf. 7122

Application No. 10/517,526

Group 1734

Filed December 13, 2004

Examiner J. Sells

MELAMINE FOAM SHEET ARTICLE AND METHOD FOR
MAKING SAME

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

March 6, 2008

Applicants request a pre-appeal brief review of the final rejection in the above-identified application. No amendments are being filed with this request.

A Notice of Appeal is filed herewith.

The review is requested for the reasons advanced on the attached sheets.

Respectfully submitted,

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REASONS IN SUPPORT OF REQUEST FOR REVIEW

A pre-appeal brief review is respectfully requested because the rejections include at least a clear factual error, or in the alternative, a clear legal error, as explained below.

Claims 42-62 and 83-89 are not rendered obvious over KLEMM et al. U.S. 4,191,743 in view of DESMARAIS et al. U.S. 6,209,430.

The Claimed Invention

Independent claim 42 is directed to a method for making an article comprising at least one piece of sheet-form melamine foam, which includes a step of cutting a melamine foam block by peeling, i.e., tangentially cutting into an exterior surface of a melamine foam block with a blade having a cutting edge aligned tangentially to said exterior surface so as to peel a strip of melamine foam from said melamine foam block, said strip having a thickness which is sufficiently small to exhibit flexibility and no flexural elasticity.

Position of the Official Action

The Official Action states that it would have been obvious to one having ordinary skill in the art to employ the tangential cutting technique disclosed by DESMARAIS to produce the sheet form melamine foam materials of KLEMM in order to achieve predictable results. Further, the Official Action states

that the steps of deriving at least one piece of sheet-form melamine foam from the strip and forming an article from the sheet-form melamine foam are inherent steps formed by the combination of the publications.

Teachings of the Art of Record

The known methods for preparing melamine foam are aqueous foaming methods, generally using a melamine/formaldehyde precondensate, an emulsifier, a volatile blowing agent and a curing agent. Due to the great fragility and the brittle nature of melamine foams, there was no method for cutting a block of melamine foam in continuous thin strips. See, the discussion of the prior art in the present specification on pages 1 and 2, e.g., DE 201 09 652, which was cited in the IDS filed December 13, 2004, and page 7, e.g., U.S. 4,666,948, which was also cited in the IDS filed December 13, 2004.

KLEMM discloses a multilayer structure of an antibacterial wound dressing, which includes a layer "c" having a thickness of 0.5-10 mm or a layer "d" having a thickness of 0.3-2 mm, wherein said layers are opened cell material, such as a foamed synthetic resin based on melamine-formaldehyde.

KLEMM, however, fails to disclose how the melamine layer is obtained, e.g., or by an aqueous foaming method or cutting from a block as recited in independent claim 42. KLEMM also fails to disclose a melamine layer thickness that is

sufficiently small to exhibit flexibility and no flexural elasticity as recited in independent claim 42.

DESMARAIS solves the problem of continuously producing a web from a block of foam material that is saturated with a fluid, by peeling (tangentially cutting) said block. DESMARAIS describes these foam materials as being very soft and susceptible to deformation if not fully supported, but having sufficiently structural integrity for being processed as a sheet. See, e.g., the discussion in column 2, line 35 to column 3, line 13 of DESMARAIS.

The types of material deemed suitable for the method of DESMARAIS are:

- Water-filled High Internal Phase Emulsion (HIPE) foams. These foams are batch-produced by curing a high internal phase emulsion in large tubes or vats, and they exhibit a good structural integrity (see column 2, lines 36-37 of DESMARAIS).

- Other materials that may be blade cut and have sufficient structural integrity to be processed as a web or sheet, such as non-foamed polymers, wood or cheese, or especially structures saturated with fluids such as water or gelatinous fluids (see column 4, lines 21-27 of DESMARAIS).

However, DESMARAIS does not disclose melamine foam as one of these types of materials, nor does DESMARAIS suggest melamine foams for at least two reasons:

(1) Melamine foams are neither HIPE foams nor structures saturated with fluids. Indeed, DESMARAIS distinguishes melamine foams from HIPE foams and structures saturated with fluids. DESMARAIS refers to US 5,318,554 (column 1, line 63 to column 2, line 3), which discloses "absorbent cores having a fluid acquisition/distribution component that can be a hydrophilic, flexible, open-celled foam such as a melamine foam (e.g. BASOTECT made by BASF), and a fluid storage/redistribution component that is a HIPE-based absorbent foam".

(2) Melamine foams are not soft and deformable, but are fragile and brittle, as recognized by the art of record, e.g., U.S. 4,666,948.

Thus, DESMARAIS fails to suggest cutting melamine foam blocks, or even fragile and brittle blocks in general.

Conclusion

One of ordinary skill in the art would have been discouraged from attempting to cut a strip from the melamine foam block as suggested by DESMARAIS to produce the wound dressing of KLEMM, as DESMARAIS cuts material that is structurally dissimilar to melamine foam. That is, there would be no expectation of success for cutting a brittle and fragile material using a method intended for soft, deformable material which is saturated with a fluid and has a structural integrity for processing as a web.

Moreover, there would have been no reason for one to even seek a method for cutting a block of melamine foam, as KLEMM does not require obtaining the melamine layer from a block.

Therefore, as shown above, the rejections of record include clear factual and/or legal errors and should be withdrawn and this application allowed, and such is respectfully requested.